

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, DC**

Application of)	
)	
KONA EXPRESS OF HAWAII)	
)	Docket DOT-OST-2018-0013
for an exemption pursuant to 49 U.S.C. § 40109 from)	
the provisions of 49 U.S.C. § 41101)	
(indirect air transportation))	

APPLICATION OF KONA EXPRESS OF HAWAII FOR AN AMENDMENT OF EXEMPTION

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January 13, 2022

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APPLICATION OF KONA EXPRESS OF HAWAII FOR AN AMENDMENT OF EXEMPTION

Pursuant to 49 U.S.C. § 40109, 14 C.F.R. Part 302, and Notice of Action Taken, dated April 11, 2018, in this Docket (“2018 NOAT”), Kona Express of Hawaii (“Kona Express”), a Hawaii corporation, hereby requests an amendment to its exemption from the requirements of 49 U.S.C. § 41101 in order to add the high-end and highly exclusive communities of Mauna Kea and Hokuli’a to its member program. In all other respects, the program remains the same.

In further support of this Application, Kona Express states:

I. Background.

Pursuant to the 2018 NOAT, the Department granted Kona Express an exemption from 49 U.S.C. § 41101 and applicable economic regulations of the Department to allow Kona Express to engage in indirect air transportation of passengers and property, whereby it was authorized to arrange and make available to its members charter shuttle air service between Los Angeles and Seattle, on the one hand, and Kailua-Kona, Hawaii, on the other hand, operated by a certificated U.S. air carrier. Under the 2018 NOAT, the program was limited to 300 members (their family, household staff, and invited guests) who have residences and vacation homes in four small, high-end residential and recreational compounds on the Kona Coast of the Big Island of Hawaii (namely, Kukio, Hualalai, Mauna Lani, and Kohanaiki). On

December 22, 2021, the Department approved the addition of Oakland, California, as a departure point for Kona Express program members (“2021 Amendment Approval”).

II. The Requested Amendment.

Kona Express was one of the early recipients of exemption authority from the Department in order to offer this distinct and very exclusive air service product to a very narrow and well-defined set of unique members, who are all residents of four residential and recreational compounds on the Kona Coast of Hawaii. Kona Express now seeks to add two communities on the Kona Coast (Mauna Kea and Hokuli’a) to its member program, so that persons who have residences and vacation homes in these high-end and highly exclusive communities can be part of the Kona Express member program.

Mauna Kea, including the Mauna Kea Residences, is a high-end and highly exclusive community. Mauna Kea has already been included as an approved community as part of Hawaii Shuttle’s member program. See Notice of Action Taken, dated August 27, 2021.

Hokuli’a is, like the others in the Kona Express program, on the Kona Coast. It is a private and exclusive luxury residential community on 1,260 acres of the Kona Coast.

Mauna Kea and Hokuli’a have all of the characteristics of the four other Kona Coast communities that are already part of the Kona Express program.

In all other respects, the Kona Express program remains as described and restricted in the original Application of Kona Express for an Exemption, dated January 24, 2018, the 2018 NOAT, and the 2021 Amendment Approval.

III. Granting The Requested Amendment Is In The Public Interest and Consistent with Recent Exemptions.

The addition of Mauna Kea and Hokuli’a is in the public interest and consistent with recent exemptions.

First, with the addition of Mauna Kea and Hokuli’a to its member program, Kona Express would still only encompass six small, high-end residential and recreational compounds on the

Big Island. This is consistent with the exemption authority granted to other similar member programs. See, e.g., Notice of Action Taken, dated August 27, 2021 (Maui-Kauai Shuttle, program includes six residential and recreational compounds on the islands of Maui, Kauai, and Oahu); Notice of Action Taken, dated August 27, 2021 (Hawaii Shuttle, program covers five residential and recreational compounds on the Kona Coast of Hawaii); Notice of Action Taken, dated August 27, 2021 (ROAM Maui, program includes five exclusive residential communities on Maui).

Second, even with the addition of the Mauna Kea and Hokuli'a communities, there is no increase in the actual number of member program participants. The member limit remains at 300, which is less than some other approved member programs. See, e.g., DOT Order 2012-2-1 (Yellowstone Club, 350 members); Notice of Action Taken, dated August 27, 2021 (ROAM Maui, 360 members); Notice of Action Taken, dated June 6, 2012 (Baker's Bay Associates, 395 members).

Third, in all other respects, the Kona Express program remains as described and restricted in the original Application of Kona Express for an Exemption, dated January 24, 2018, the 2018 NOAT, and the 2021 Amendment Approval. For example, the Kona Express program remains small, restricted, and exclusive; the pool of potentially eligible individuals remains narrowly defined; the number of members is still limited to 300 members; the flights will not be held out to the public; and no seat on the aircraft can be sold to a third party.

For the reasons described above, Kona Express of Hawaii requests that the Department expeditiously amend its exemption authority as described herein.



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Certificate of Service

I hereby certify that a copy of the foregoing Application Of Kona Express Of Hawaii For An Amendment Of Exemption has been served this January 13, 2022, upon each of the following addressees by electronic mail:

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